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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,949	08/19/2003	John R. Abe	ABE1P001	6802
28875	7590	06/07/2005	EXAMINER	
Zilka-Kotab, PC P.O. BOX 721120 SAN JOSE, CA 95172-1120				WOO, RICHARD SUKYOON
		ART UNIT		PAPER NUMBER
		3639		

DATE MAILED: 06/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/644,949	JOHN R. ABE
	Examiner	Art Unit
	Richard Woo	3639

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 18 February 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8,13-15,17 and 19-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-8,13-15,17 and 19-36 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>02-22-05</u>	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Response to Arguments

- 1) Applicant's amendments filed February 18, 2005 has been entered.
- 2) Applicant's arguments, filed February 18, 2005, with respect to the rejections under 35 U.S.C. sections 101, 112 and 102 have been fully considered and are persuasive. All the rejections of the previous office action have been withdrawn.
- 3) The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

- 4) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- 5) Claims 1-8, 13-15, 17, and 19-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Phillips et al. (US 2002/0116348).

As for Claim 1, Phillips et al. discloses a method comprising:

receiving a plurality of prices associated with a price-frequency mathematical distribution of competitor prices (see Figs. 1-3, 6-7; paragraph [0013]-[0014], [0018]);
receiving a number of competitors (see *Id.*);
receiving a business objective (e.g. maximizing revenue; see Fig. 7);

receiving a cost associated with a good or service (see Supra Figs. and paragraphs);

calculating an optimal price based on the prices, number of competitors, business objective, and cost associated with a good or service (see Figs. 1-7; paragraphs [0052] – [0068]); and

outputting the optimal price (see Supra Figs.).

As for Claim 2, Phillips et al. further discloses the method, wherein the price-frequency mathematical distribution includes a price-frequency mathematical curve (see Fig. 4).

As for Claim 3, Phillips et al. further discloses the method, wherein the plurality of prices include a highest frequency price (see *Id.*).

As for Claim 4, Phillips et al. further discloses the method, wherein the plurality of prices include a mean price (see Figs. 3-5, Supra paragraphs [0052]-[0068]).

As for Claim 5, Phillips et al. further discloses the method, wherein the plurality of prices include a standard deviation low price (see *Id.*).

As for Claim 6, Phillips et al. further discloses the method, wherein the plurality of prices include a standard deviation high price (see *Id.*).

As for Claim 7, Phillips et al. further discloses the method, wherein the plurality of prices include a price associated with a beginning of the price-frequency mathematical distribution (see Figs. 3-5 and Supra paragraphs).

As for Claim 8, Phillips et al. further discloses the method, wherein the plurality of prices include a price associated with an end of the price-frequency mathematical distribution (see *Id.*).

As for Claim 13, Phillips et al. further discloses the method, including: receiving a sales and administration cost (see *Supra* paragraphs [0013]-[0014], [0018]).

As for Claim 14, Phillips et al. further discloses the method, wherein the business objective includes maximizing EBIT for the good or service (see *Supra* paragraphs).

As for Claim 15, Phillips et al. further discloses the method, wherein the calculating is carried out utilizing a frequency distribution engine, a probability of win engines and expected results engine (see Figs. 2, 7; *Supra* paragraphs).

As for Claim 17, Phillips et al. further discloses the method, wherein the calculating further includes adjusting the probability of a customer purchase based on the number of competitors (see paragraph [0018]).

As for Claim 21, Phillips et al. further discloses the method, wherein a GUI is included (see Figs. 1-7 for the GUI).

As for Claim 22, Phillips et al. further discloses the method, wherein the GUI is adapted (see *Id.*).

As for Claim 23, Phillips et al. further discloses the method, wherein the price-frequency mathematical distribution is used to estimate the competitor prices (see *Supra* paragraphs [0052]-[0068]).

As for Claim 24, Phillips et al. further discloses the method, wherein the price-frequency distribution is estimated using the set of competitor prices (see *Id.*).

As for Claim 25, Phillips et al. further discloses the method, wherein the price-frequency mathematical distribution is converted to an expected probability of a customer purchase based on the number of competitors (see paragraph [0018]).

As for Claim 26, Phillips et al. further discloses the method, wherein the price-frequency mathematical distribution is converted to a table of prices with a frequency of a price within the table corresponding to the price-frequency mathematical distribution (see the table in Figs. 3, 5).

As for Claim 27, Phillips et al. further discloses the method, wherein each price, probability of a customer purchase, and cost-per-unit are used to form an income/operational statement for each member of a plurality of prices (see Supra paragraphs).

As for Claim 28, Phillips et al. further discloses the method, wherein each income/operational statement is comprised of financial and operational terms including revenue, cost-of-goods, gross profit, factory utilization, and market penetration (see paragraph [0018]).

As for Claim 29, Phillips et al. further discloses the method, wherein a set of the income/operational statements are stored within a table (see Figs. 1-7).

As for Claim 30, Phillips et al. further discloses the method, wherein a maximum revenue value, a maximum profit value, a plurality of factory utilization values, and the market penetration value corresponding to a market penetration goal are identified along with corresponding prices (see paragraphs [0031]-[0039], [0076]-[0077]).

As for Claim 31, Phillips et al. further discloses the method, wherein the optimal price satisfying the selected objectives is identified (see *Id.*).

As for Claim 32, Phillips et al. further discloses the method, wherein each price, probability of-a customer purchase, and cost-per-unit are used to form an income/operational statement for each member of a plurality of prices (see *Supra* paragraphs).

As for Claim 33, Phillips et al. further discloses the method, wherein each income/operational statement is comprised of financial and operational terms including revenues cost-of-goods, gross profit, factory utilization, and market penetration (see *Id.*).

As for Claim 34, Phillips et al. further discloses the method, wherein a set of the income/operational statements are stored within a table (see *Id.*).

As for Claim 35, Phillips et al. further discloses the method, wherein a maximum revenue value, a maximum profit value, a plurality of factory utilization values, and the market penetration value corresponding to a market penetration goal are identified along with corresponding prices (see *Supra* paragraphs [0031]-[0039], [0076]-[0077]).

As for Claim 36, Phillips et al. further discloses the method, wherein the optimal price satisfying the selected objectives is identified (see *Id.*).

As for Claim 19, Phillips et al. discloses a computer program product comprising:

computer code for receiving a plurality of prices associated with a price-frequency mathematical distribution of competitor prices (see Figs. 1-3, 6-7; paragraph [0013]-[0014], [0018]);

computer code for receiving a number of competitors (see Id.);

computer code for receiving a business objective (e.g. maximizing revenue; see Fig. 7);

computer code for receiving a cost associated with a good or service (see Supra Figs. and paragraphs);

computer code for calculating an optimal price based on the prices, number of competitors, business objective, and cost associated with a good or service (see Figs. 1-7; paragraphs [0052] – [0068]); and

computer code for outputting the optimal price (see Supra Figs.).

As for Claim 20, Phillips et al. discloses a system comprising:

an input device for receiving a plurality of prices associated with a price-frequency mathematical distribution of competitor prices, a number of competitors, a business objective, and a cost associated with good or service, wherein the business objective (maximize revenue for the good or service, maximizing gross profit for the good or services, maximizing factory utilization for the good or service) (see GUI in Figs. 1-7);

a processor for calculating an optimal price (see Fig. 1-2, 6-7); and

a monitor.

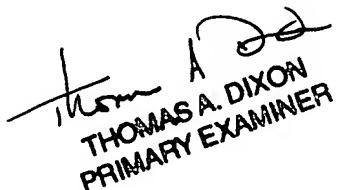
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Woo whose telephone number is 571-272-6813. The examiner can normally be reached on Monday-Friday from 8:30 AM -5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Richard Woo
Patent Examiner
Art Unit 6939
May 31, 2005


THOMAS A. DIXON
PRIMARY EXAMINER